



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 8**  
**999 18<sup>TH</sup> STREET - SUITE 300**  
**DENVER, CO 80202-2466**  
<http://www.epa.gov/region08>

April 25, 2003

Ref: 8ENF-T

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Gary Cinnamon, Town Administrator  
Town of Lyons  
P.O. Box 49  
Lyons, Colorado 80549-0049

Dear Mr. Cinnamon:

Enclosed is a United States Environmental Protection Agency Region VIII ("EPA") Order for Compliance ("Order") issued to the Town of Lyons. The Order specifies the nature of the violations under the Clean Water Act, as amended, 33 U.S.C. § 1251, *et seq.* (the "CWA"). The authority for such action is provided to EPA under section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3).

The Order describes the actions necessary in order for the Town of Lyons to achieve compliance with the CWA. Furthermore, the Order requires you to notify EPA in writing within ten (10) days whether you intend to comply with the Order.

The CWA requires the Administrator of EPA to take all appropriate enforcement actions necessary to secure prompt compliance with the CWA and any Orders issued thereunder. Section 309 of the CWA provides a variety of possible enforcement actions, including the filing of a civil or criminal action (33 U.S.C. §§ 1319(b), (c), (d), and (g)). Section 508 allows for debarment from Federal contracts and/or loans for any noncompliance with the CWA or with an Order issued pursuant to the CWA (33 U.S.C. § 1368).

Please be advised that the issuance of this Order does not preclude the initiation of administrative penalty proceedings or initiation of civil or criminal actions in the U.S. District Court under sections 309(g), (b), (d) and (c) of the CWA for the violations cited in the Order.



Please review the Order carefully. Failure to comply with the requirements of the Order shall constitute a violation of said Order. If you have any questions regarding this letter, the enclosed Order, or any other matters pertinent to the Town of Lyon's compliance with the CWA, the most knowledgeable people on my staff regarding these matters are Elyana Sutin, Enforcement Attorney, at (303) 312-6899, and Julie Orr, Technical Enforcement, at (303) 312-6225.

Sincerely,

**SIGNED**

Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures

cc: Dave Akers, CDPHE (w/encl.)  
Wes Carr, CDPHE (w/encl.)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VIII**

IN THE MATTER OF:

Town of Lyons  
Lyons, Colorado

Respondent.

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**ORDER FOR COMPLIANCE**

Docket No. **CWA-08-2003-51**

**LEGAL AUTHORITY**

This Order for Compliance (Order) is issued pursuant to section 309(a)(3) of the Federal Water Pollution Control Act (Act), 33 U.S.C. § 1319(a)(3), which authorizes the Administrator of the United States Environmental Protection Agency (EPA) to issue an order requiring compliance by a person found to be in violation of sections 301, 302, 306, 307, 308, 318, 402, and/or 405 of the Act, or of any permit condition or limitation implementing those sections. This authority has been properly delegated to the undersigned official.

As authorized by the Act, EPA developed regulations which: identify uses for sewage sludge, including disposal; specify factors to be taken into account in determining measures and practices applicable to each such use or disposal; and identify concentrations of pollutants which interfere with each such use or disposal. 33 U.S.C. § 1345(d). The regulations have been in effect since 1993. All terms used in this Order are defined in the Act and/or EPA regulations. See, sections 212, 301, 309, 402, 405 and 502 of the Act, 33 U.S.C. §§ 1292, 1311, 1319, 1342, 1345 and 1362, and 40 C.F.R. parts 122 and 503.

**FINDINGS OF FACT AND LAW**

1. Respondent, the Town of Lyons, Colorado, is a town created under Colorado law.
2. Respondent owns a publicly owned treatment works ("the facility") where domestic sewage is treated.

3. Respondent generates sewage sludge (solid, semi-solid, or liquid residue) during treatment of domestic sewage at the facility.
4. Respondent is therefore subject to the sewage sludge regulations and any permit issued by EPA implementing the regulations. 40 C.F.R. part 503.
5. EPA issued a general permit, effective on August 16, 2002, for facilities in Colorado and Indian country that generate, treat, and/or use or dispose of sewage sludge by land application, landfill, and surface disposal. Attachment A - General permit number COG650000; 67 Fed. Reg. Pages 44460 - 44462 (2002).
6. Respondent is regulated by the general permit.
7. Respondent was required to apply for coverage under the general permit by November 15, 2002, or apply for an individual sewage sludge permit. Respondent has not applied for the general or an individual sewage sludge permit.
8. Respondent's failure to apply for coverage under the general permit constitutes a violation of the EPA regulations and the Act. 40 C.F.R. § 122.21 and 33 U.S.C. § 402(a).

### **ORDER**

\_\_\_\_\_ Respondent is ordered to perform the following actions:

9. Within ten (10) days of receipt of this Order, Respondent shall give written notice to EPA of its intent to comply with the requirements of this Order.
10. Within thirty (30) days of receipt of this Order, Respondent shall submit a completed Notice of Intent ("NOI") to be covered under the general permit or shall apply for an individual permit. The NOI shall include all information outlined in part 2.2.1 of the general permit, applicable information outlined in part 2.2.2, and parts 4, 5, 6, and 7 (as applicable). The format of the NOI shall adhere to the guidelines outlined in part 2.2 of the general permit. EPA will review the NOI and either: (a) approve the NOI; (b) approve the NOI with modifications; (c) disapprove the NOI and direct Respondent to resubmit the NOI after incorporating EPA's comments; or (d) direct Respondent to apply for an individual sewage

sludge permit.

11. Within fifteen (15) days of receipt of EPA's response to the NOI, or such longer time as specified by EPA's response, Respondent will either comply with EPA's response, or object in writing to EPA's response. If Respondent timely files such an objection, EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision to Respondent, which decision shall be final and binding upon Respondent.

12. Within fourteen (14) days of receipt of EPA's written notice of coverage under the general permit, Respondent shall submit an itemized list of all costs incurred to comply with the permit application requirements of this Order.

#### **OTHER PROVISIONS**

13. EPA regulations protect confidential business information. 40 C.F.R. part 2, subpart B. If Respondent asserts a business confidentiality claim pursuant to these regulations for information required to be submitted under this Order, such information shall only be provided to EPA. If EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in the regulations. Unless a confidentiality claim is asserted at the time the information is submitted, the information shall be provided to both EPA and the Colorado Department of Public Health and Environment as specified below, and EPA may make the information available to the public without further notice to you.

14. All written notices and reports required by this Order shall be sent to the following addresses:

Julie Orr (8ENF-T)  
U.S. EPA Region VIII

Wes Carr (WQP-P)  
Colorado Department of Health

Office of Enforcement, Compliance  
and Environmental Justice  
Technical Enforcement Program  
999 18<sup>th</sup> Street, Suite 300  
Denver, Colorado 80202-2466

and Environment  
Water Quality Control Division  
Water Quality Section  
4300 Cherry Creek Drive South  
Denver, CO 80246-1530

15. Any failure to comply with the requirements of this Order shall constitute a violation of the Order and may subject Respondent to penalties as provided under the Act, 33 U.S.C. § 1319.

16. This Order does not constitute a waiver or modification of the terms and conditions of any National Pollutant Discharge Elimination System permit held by Respondent, or of any other legal responsibilities or liability. Any such permit remains in full force and effect.

17. This Order does not constitute a waiver of or election by EPA to forego any civil or criminal action to seek penalties, fines or other relief under the Act. The Act authorizes the assessment of civil penalties of up to \$27,500 per day for each violation of the Act, and fines and imprisonment for willful or negligent violations. 33 U.S.C. § 1319.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION VIII  
Complainant.

Date: 4/25/03

**SIGNED**  
\_\_\_\_\_  
Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

In the Matter of:       Town of Lyons  
Docket No.:            **CWA-08-2003-51**

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Findings of Violation and Order for Compliance was sent to the following persons, in the manner specified, on the date below:

Original and One (1) Copy  
Hand-carried and Filed:

Tina Artemis  
Regional Hearing Clerk  
U.S. EPA, Region VIII  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

True Copy by Certified Mail  
"Return Receipt Requested"  
with the attached document:

Gary Cinnamon  
Town Administrator  
Town of Lyons  
P.O. Box 49  
Lyons, Colorado 80549-0049

Certificate of Service

Date: **4-29-03** \_\_\_\_\_

**Joan Boyd** \_\_\_\_\_

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENT, PLEASE CONTACT THE  
REGIONAL HEARING CLERK.**

**THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON APRIL 28, 2003.**